



Los Angeles County  
Board of Supervisors

April 24, 2012

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*To ensure access to high-quality, patient-centered, cost-effective health care to Los Angeles County residents through direct services at DHS facilities and through collaboration with community and university partners.*

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The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**REQUEST FOR DELEGATED AUTHORITY TO EXECUTE AGREEMENTS  
FOR SUPPLEMENTAL MANAGED CARE PAYMENTS  
ALL SUPERVISORIAL DISTRICTS  
3 VOTES**

**SUBJECT**

Request approval and delegation of authority to the Los Angeles County Department of Health Services to execute agreements with the California State Department of Health Care Services to make intergovernmental transfers and to reimburse the State for the administrative cost of operating the program that would fund supplemental Medi-Cal managed care rate increases, and to execute an amendment to the existing agreement with Health Net Community Solutions, Inc. and to execute a new agreement with the Local Initiative Health Authority for Los Angeles County both of which allow them to make supplemental payments to the Department of Health Services.

**IT IS RECOMMENDED THAT YOUR BOARD:**

Delegate authority to the Director of Health Services, or his designee, to prepare and execute, on behalf of the County of Los Angeles, the following five agreements for the federal fiscal year (FFY) service period of October 1, 2010 through September 30, 2011, subject to review and approval by County Counsel and written notification to the Chief Executive Office and to your Board when the final agreements are executed:

1. An agreement with Department of Health Care Services (DHCS) to authorize intergovernmental transfers (IGTs) of approximately \$38,986,000 to



fund the Intergovernmental Transfer Medi-Cal Managed Care Capitation Rate Range Increases (IGT MMCRRIs) for Local Initiative Health Authority for Los Angeles County (L.A. Care).

2. An agreement with DHCS to authorize IGTs of approximately \$17,130,000 to fund IGT MMCRRIs for Health Net Community Solutions, Inc. which acts on behalf of Health Net of California (Health Net).

3. An agreement with DHCS to pay a 20% administrative fee that will be assessed by the state on the IGT amounts, estimated at \$7,797,000 for L.A. Care and \$3,426,000 for Health Net.

4. A new agreement with L.A. Care which will authorize it to pay the Community Health Plan (CHP) Local Medi-Cal Managed Care Rate Range (LMMCRR) IGT payments of approximately \$92,602,000. The LMMCRR IGT Payments are based on IGT MMCRRIs that L.A. Care received from DHCS.

5. An amendment to the existing service agreement with Health Net which will authorize it to provide Department of Health Services (DHS) LMMCRR IGT Payments of approximately \$40,589,000. These LMMCRR IGT Payments are based on IGT MMCRRIs that Health Net receives from DHCS.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The recommendations will allow the Director to enter into the necessary agreements with DHCS, substantially similar to Exhibits I through III, which allow DHS to forward IGTs to DHCS which will provide the non-federal share of Medi-Cal capitation rate increases to L.A. Care and Health Net, and which provide for payment of an administrative fee; enter into an agreement with L.A. Care, similar to Exhibits IV, which authorizes L.A. Care to forward LMMCRR IGT Payments of approximately \$92,602,000 to CHP and DHS providers; and enter into an amendment to the agreement with Health Net, similar to Exhibit V, which authorizes Health Net to forward LMMCRR IGT Payments to DHS providers of approximately \$40,589,000. Health Net will be permitted to retain an administrative fee of \$100,000, and both L.A. Care and Health Net will be permitted to retain sufficient amounts to pay the Managed Care Organization (MCO) taxes, if any, assessed on the IGT MMCRRIs.

Since the October 1, 2006 service period, the State and federal governments have approved a County-developed proposal to use IGTs to draw down federal revenues to fund higher payments under Medi-Cal managed care to CHP and DHS facilities. They are allowing this program to continue, by authorizing higher Medi-Cal capitation rates for FFY 2010-11 to L.A. Care and Health Net which are funded by County IGTs. The two health plans will then pass on those additional payments, which include both local and federal matching funds, to the County providers or the CHP as LMMCRR IGT Payments.

To implement the program for this year, three types of agreements are necessary. The first type of agreement is with DHCS and allows the County to make IGTs to fund the IGT MMCRRIs for services to L.A. Care and Health Net enrollees for the period of October 1, 2010 through September 30, 2011, which is the most recently completed managed care rate year. To the extent IGT funds are not used by DHCS to make supplemental payments to L.A. Care and Health Net, the money will be returned to the County.

The second type of agreement is with DHCS whereby DHS will pay a 20% administrative fee that will be assessed on the full amount of the IGT. Payment of this administrative fee by entities wishing to

participate in the program is required by a Welfare & Institutions Code section 14301.4, which was added by the Legislature last year.

The third type of agreements are with L.A. Care and Health Net and are necessary to set the terms and conditions under which those entities pass on the LMMCRR IGT Payments to the DHS providers.

The Centers for Medicare and Medicaid Services (CMS) must approve all Medi-Cal managed care rate increases and review all relevant documentation. Although CMS has approved the template that formed the basis for the draft agreements attached to this letter, it has not given final approval. Accordingly, additional changes may be required by CMS. In the unlikely event that CMS requires material changes, we shall return to your Board for a new delegation of authority. Otherwise, we shall notify your Board when the agreements are executed.

### **Implementation of Strategic Plan Goals**

The recommended action(s) support Goal 4, Health and Mental Health of the County's Strategic Plan.

### **FISCAL IMPACT/FINANCING**

Approval of the recommended actions will allow DHS to make FFY 2010-11 IGT payments to DHCS for L.A. Care of approximately \$38,986,000 and for Health Net of approximately \$17,130,000 and to receive LMMCRR IGT Payments from L.A. Care and Health Net of approximately \$92,602,000 and \$40,589,000, respectively. In addition, it will allow DHS to pay DHCS the administrative fees of approximately \$7,797,000 for L.A. Care and \$3,426,000 for Health Net. The final payments for FFY 2010-11 services under these agreements will depend on the actual number of capitated lives enrolled in each health plan. The payments received must be used by the DHS facilities to which they are allocated to pay for health care services; that is, no part of such payments may be distributed to the County's general fund or used by other County entities. Funding for the IGTs and the associated revenues are included in the DHS' Fiscal Year 2011-12 Final Budget.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

County Counsel has worked with DHCS and the health plans on the agreements as to form and since August 19, 2008, your Board has authorized DHS to execute similar agreements with DHCS to make IGTs and receive supplemental managed care payments from our health plans. Those agreements covered the following periods:

- October 1, 2006 through September 30, 2007
- October 1, 2007 through September 30, 2008
- October 1, 2008 through September 30, 2009
- October 1, 2009 through September 30, 2010

The agreements with the State will require DHS to certify that the transferred funds qualify for federal financial participation, and do not constitute improper "recycling" of Medicaid funds.

The County does not receive managed care payments directly from the State; rather, DHCS

contracts with L.A. Care and Health Net, which then subcontracts for services with various provider networks, including CHP and DHS providers. Accordingly, in order to receive the benefit of the IGT funded payments, DHS is negotiating an amendment to its subcontractor agreement with Health Net which provides that it will pay over to DHS the full amount of the IGT MMCRRI's it receives, except for Health Net's administrative fee of \$100,000 and the amounts necessary to pay the MCO tax imposed on the IGT MMCRRI's. A freestanding agreement for the same purpose has been negotiated with L.A. Care. Because of constraints imposed by the CMS approved template, such agreement does not contain many of the County's standard terms and conditions.

The agreements contain an indemnification clause authorizing DHS to hold L.A. Care and/or Health Net harmless for any losses they incur as a result of the receipt of IGT MMCRRI's or LMMCRRI IGT Payments.

DHCS has imposed a short time frame for the completion of these payments. To meet that time frame and to expedite receipt of these supplemental funds, DHS is requesting delegation of authority from your Board to execute the DHCS, L.A. Care and Health Net agreements.

**CONTRACTING PROCESS**

Advertising on the County's Online Website is not applicable.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There is no impact on current services as a result of this authorization. However, approval of this action will allow DHS to increase federal revenue sources and meet revenue projections included in the DHS Fiscal Outlook.

Respectfully submitted,



Mitchell H. Katz, M.D.

Director

MHK:ANW:hr

Enclosures

c: Chief Executive Office  
County Counsel  
Executive Office, Board of Supervisors

**INTERGOVERNMENTAL AGREEMENT REGARDING  
TRANSFER OF PUBLIC FUNDS**

This Agreement is entered into between the CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES ("DHCS") and the COUNTY OF LOS ANGELES, CALIFORNIA with respect to the matters set forth below.

**RECITALS**

- A. This Agreement is made pursuant to the authority of Welfare & Institutions Code, section 14164.
- B. The Local Initiative Health Authority for Los Angeles County doing business as L.A. Care Health Plan ("L.A. CARE") is a local governmental authority formed pursuant to Welfare and Institutions Code sections 14087.38(b) and 14087.9605. L.A. CARE is a party to a Medi-Cal managed care contract with DHCS, entered into pursuant to Welfare and Institutions Code section 14087.3, under which L.A. CARE arranges and pays for the provision of covered Medi-Cal health care services to eligible Medi-Cal members residing in the County.

THEREFORE, the parties agree as follows:

**AGREEMENT**

1. Transfer of Public Funds

1.1 The COUNTY OF LOS ANGELES shall transfer funds to DHCS pursuant to section 14164 of the Welfare and Institutions Code, up to a maximum total amount of Thirty Eight Million, Nine Hundred and Eighty-Six Thousand, One Hundred and Eighty-One Dollars (\$38,986,181), to be used as a portion of the nonfederal share of actuarially sound Medi-Cal managed care capitation rate increases for L.A. CARE for the period October 1, 2010 through September 30, 2011 as described in

section 2.2 below. The funds shall be transferred in accordance with a mutually agreed upon schedule between the COUNTY OF LOS ANGELES and DHCS, in the amounts specified therein.

1.2 The COUNTY OF LOS ANGELES shall certify that the funds transferred qualify for federal financial participation pursuant to 42 C.F.R. part 433 subpart B, and are not derived from impermissible sources such as recycled Medicaid payments, federal money excluded from use as State match, impermissible taxes, and non-bona fide provider-related donations. For transferring units of government that are also direct service providers, impermissible sources do not include patient care or other revenue received from programs such as Medicare or Medicaid to the extent that the program revenue is not obligated to the State as the source of funding.

2. Acceptance and Use of Transferred Funds by DHCS

2.1 DHCS shall exercise its authority under section 14164 of the Welfare and Institutions Code to accept funds transferred by the COUNTY OF LOS ANGELES pursuant to this Agreement as intergovernmental transfers (“IGTs”), to use for the purpose set forth in section 2.2 below.

2.2 The funds transferred by the COUNTY OF LOS ANGELES pursuant to this Agreement shall be used to fund a portion of the nonfederal share of increases in Medi-Cal managed care actuarially sound capitation rates and shall be paid, together with the related federal financial participation, by DHCS to L.A. CARE as part of L.A. CARE's capitation rates for the period October 1, 2010 through September 30, 2011. The rate increases paid under section 2.2 shall be used for payments related to Medi-Cal services rendered to Medi-Cal beneficiaries. The rate increases paid under this section 2.2 shall be in addition to, and shall not replace or supplant, all other amounts paid or payable by DHCS or other State agencies to L.A. CARE.

2.3 DHCS shall seek federal financial participation for the rate increases specified in section 2.2 to the full extent permitted by federal law.

2.4 The parties acknowledge the State DHCS will obtain any necessary approvals from the Centers for Medicare and Medicaid Services prior to the payment of any rate increase pursuant to section 2.2.

2.5 The parties agree that none of these funds, either COUNTY OF LOS ANGELES or federal matching funds will be recycled back to the COUNTY OF LOS ANGELES' general fund, the State, or any other intermediary organization. Payments made by the health plan to providers under the terms of this Agreement constitute patient care revenues.

2.6 Within One Hundred Twenty (120) calendar days of the execution of this Agreement, DHCS shall advise the COUNTY OF LOS ANGELES and L.A. CARE of the amount of the Medi-Cal managed care capitation rate increases that DHCS paid to L.A. CARE during the applicable rate year involving any funding under the terms of this Agreement.

2.7 If any portion of the funds transferred by the COUNTY OF LOS ANGELES pursuant to this Agreement is not expended for the specified rate increases under Section 2.2, DHCS shall return the unexpended funds to the COUNTY OF LOS ANGELES.

3. Amendments

3.1 No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

3.2 The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in section 2 of this Agreement.

4. Notices. Any and all notices required, permitted or desired to be given hereunder by one party to the other shall be in writing and shall be delivered to the other party personally or by United

States first class, certified or registered mail with postage prepaid, addressed to the other party at the address set forth below:

To the COUNTY OF LOS ANGELES:

Allan Wecker  
Chief Financial Officer  
County of Los Angeles  
313 S. Figueroa Street  
Los Angeles, CA 90012

With copies to:

Anita D. Lee  
Principle Deputy County Counsel  
Office of the County Counsel  
500 W. Temple Street  
Los Angeles, CA 90012

To DHCS:

Carrie Allison  
California Department of Health Care Services  
Medi-Cal Managed Care Division  
1501 Capitol Ave., Suite 71-4002  
MS 4415  
Sacramento, CA 95814

5. Other Provisions

5.1 This Agreement contains the entire Agreement between the parties with respect to the Medi-Cal rate increases for L.A. CARE described in section 2.2 and supersedes any previous or contemporaneous oral or written proposals, statements, discussions, negotiations or other agreements between the COUNTY OF LOS ANGELES and DHCS. This Agreement is not, however, intended to be the sole agreement between the parties on matters relating to the funding and administration of the Medi-Cal program. One or more other agreements already exist between the parties regarding such other

matters, and other agreements may be entered into in the future. This Agreement shall not modify the terms of any other agreement between the parties.

5.2 The non-enforcement or other waiver of any provision of this Agreement shall not be construed as a continuing waiver or as a waiver of any other provision of this Agreement.

5.3 Section 2 of this Agreement shall survive the expiration or termination of this Agreement.

5.4 Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

5.5 Time is of the essence in this Agreement.

5.6 Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the DHCS' powers, authorities, and duties under federal and state law and regulations.

7. Approval. This Agreement is of no force and effect until signed by the parties.

8. Term. This Agreement shall be effective as of October 1, 2010 and shall expire as of December 31, 2012 unless terminated earlier by mutual agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of  
the last signature below.

THE COUNTY OF LOS ANGELES

By: \_\_\_\_\_

Date: \_\_\_\_\_

Mitchell H. Katz, M.D.  
Director, Department of Health Services

THE STATE OF CALIFORNIA, DEPARTMENT OF HEALTH CARE SERVICES:

By: \_\_\_\_\_

Date: \_\_\_\_\_

Margaret Tatar, Chief, Medi-Cal Managed Care Division

**INTERGOVERNMENTAL AGREEMENT REGARDING  
TRANSFER OF PUBLIC FUNDS**

This Agreement is entered into between the CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES ("DHCS") and the COUNTY OF LOS ANGELES, CALIFORNIA with respect to the matters set forth below.

**RECITALS**

- A. This Agreement is made pursuant to the authority of Welfare & Institutions Code, section 14164.
- B. Health Net Community Solutions Inc. ("HEALTH NET") is a health plan licensed pursuant to Health and Safety Code section 1379. HEALTH NET is a party to a Medi-Cal managed care contract with DHCS, entered into pursuant to Welfare and Institutions Code section 14087.3, under which HEALTH NET arranges and pays for the provision of covered Medi-Cal health care services to eligible Medi-Cal members residing in the County.

THEREFORE, the parties agree as follows:

**AGREEMENT**

1. Transfer of Public Funds

1.1 The COUNTY OF LOS ANGELES shall transfer funds to DHCS pursuant to section 14164 of the Welfare and Institutions Code, up to a maximum total amount of Seventeen Million, One Hundred and Thirty Thousand, Two Hundred and Ninety-One Dollars (\$17,130,291), to be used as a portion of the nonfederal share of actuarially sound Medi-Cal managed care capitation rate increases for HEALTH NET for the period October 1, 2010 through September 30, 2011 as described in section 2.2 below. The funds shall be transferred in accordance with a mutually agreed upon schedule between the COUNTY OF LOS ANGELES and DHCS, in the amounts specified therein.

1.2 The COUNTY OF LOS ANGELES shall certify that the funds transferred qualify for federal financial participation pursuant to 42 C.F.R. part 433 subpart B, and are not derived from impermissible sources such as recycled Medicaid payments, federal money excluded from use as State match, impermissible taxes, and non-bona fide provider-related donations. For transferring units of government that are also direct service providers, impermissible sources do not include patient care or other revenue received from programs such as Medicare or Medicaid to the extent that the program revenue is not obligated to the State as the source of funding.

2. Acceptance and Use of Transferred Funds by DHCS

2.1 DHCS shall exercise its authority under section 14164 of the Welfare and Institutions Code to accept funds transferred by the COUNTY OF LOS ANGELES pursuant to this Agreement as intergovernmental transfers (“IGTs”), to use for the purpose set forth in section 2.2 below.

2.2 The funds transferred by the COUNTY OF LOS ANGELES pursuant to this Agreement shall be used to fund a portion of the nonfederal share of increases in Medi-Cal managed care actuarially sound capitation rates and shall be paid, together with the related federal financial participation, by DHCS to HEALTH NET as part of HEALTH NET's capitation rates for the period October 1, 2010 through September 30, 2011. The rate increases paid under section 2.2 shall be used for payments related to Medi-Cal services rendered to Medi-Cal beneficiaries. The rate increases paid under this section 2.2 shall be in addition to, and shall not replace or supplant, all other amounts paid or payable by DHCS or other State agencies to HEALTH NET.

2.3 DHCS shall seek federal financial participation for the rate increases specified in section 2.2 to the full extent permitted by federal law.

2.4 The parties acknowledge the State DHCS will obtain any necessary approvals from the Centers for Medicare and Medicaid Services prior to the payment of any rate increase pursuant to section 2.2.

2.5 The parties agree that none of these funds, either COUNTY OF LOS ANGELES or federal matching funds will be recycled back to the COUNTY OF LOS ANGELES' general fund, the State, or any other intermediary organization. Payments made by the health plan to providers under the terms of this Agreement constitute patient care revenues.

2.6 Within One Hundred Twenty (120) calendar days of the execution of this Agreement, DHCS shall advise the COUNTY OF LOS ANGELES and HEALTH NET of the amount of the Medi-Cal managed care capitation rate increases that DHCS paid to HEALTH NET during the applicable rate year involving any funding under the terms of this Agreement.

2.7 If any portion of the funds transferred by the COUNTY OF LOS ANGELES pursuant to this Agreement is not expended for the specified rate increases under Section 2.2, DHCS shall return the unexpended funds to the COUNTY OF LOS ANGELES.

3. Amendments

3.1 No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

3.2 The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in section 2 of this Agreement.

4. Notices. Any and all notices required, permitted or desired to be given hereunder by one party to the other shall be in writing and shall be delivered to the other party personally or by United States first class, certified or registered mail with postage prepaid, addressed to the other party at the address set forth below:

Template Version-1/20/12  
Reviewed by DHCS 3/30/12

To the COUNTY OF LOS ANGELES:

Allan Wecker  
Chief Financial Officer  
County of Los Angeles  
313 S. Figueroa Street  
Los Angeles, CA 90012

With copies to:

Anita D. Lee  
Principle Deputy County Counsel  
Office of the County Counsel  
500 W. Temple Street  
Los Angeles, CA 90012

To DHCS:

Carrie Allison  
California Department of Health Care Services  
Medi-Cal Managed Care Division  
1501 Capitol Ave., Suite 71-4002  
MS 4415  
Sacramento, CA 95814

5. Other Provisions

5.1 This Agreement contains the entire Agreement between the parties with respect to the Medi-Cal rate increases for HEALTH NET described in section 2.2 and supersedes any previous or contemporaneous oral or written proposals, statements, discussions, negotiations or other agreements between the COUNTY OF LOS ANGELES and DHCS. This Agreement is not, however, intended to be the sole agreement between the parties on matters relating to the funding and administration of the Medi-Cal program. One or more other agreements already exist between the parties regarding such other matters, and other agreements may be entered into in the future. This Agreement shall not modify the terms of any other agreement between the parties.

Template Version-1/20/12  
Reviewed by DHCS 3/30/12

5.2 The non-enforcement or other waiver of any provision of this Agreement shall not be construed as a continuing waiver or as a waiver of any other provision of this Agreement.

5.3 Section 2 of this Agreement shall survive the expiration or termination of this Agreement.

5.4 Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals; accordingly, there shall be no third party beneficiary of this Agreement.

5.5 Time is of the essence in this Agreement.

5.6 Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

6. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the DHCS' powers, authorities, and duties under federal and state law and regulations.

7. Approval. This Agreement is of no force and effect until signed by the parties.

8. Term. This Agreement shall be effective as of October 1, 2010 and shall expire as of December 31, 2012 unless terminated earlier by mutual agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

THE COUNTY OF LOS ANGELES

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mitchell H. Katz, M.D.  
Director, Department of Health Services

THE STATE OF CALIFORNIA, DEPARTMENT OF HEALTH CARE SERVICES:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Margaret Tatar, Chief, Medi-Cal Managed Care Division

## Exhibit III

CONTRACT #10-87316

### INTERGOVERNMENTAL TRANSFER ASSESSMENT FEE

This Agreement is entered into between the CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (“State DHCS”) and the County of Los Angeles, California (“the County”) with respect to the matters set forth below.

#### RECITALS

A. This Agreement is made pursuant to the authority of Welfare & Institutions Code, section 14301.4.

THEREFORE, the parties agree as follows:

#### AGREEMENT

1. Transfer of Public Funds

1.1 The County shall make Intergovernmental Transfer(s) (“IGTs”) to State DHCS pursuant to section 14164 of the Welfare and Institutions Code and paragraph 1.1 of the Intergovernmental Agreement(s) Regarding the Transfer of Public Funds contract number(s) 10-87292 and 10-87293, to be used as a portion of the non-federal share of actuarially sound Medi-Cal managed care rate range capitation increases (“non-federal share IGT”) to Health Net Community Solutions, Inc. (“Health Net”) and L.A. Care Health Plan (“L.A. Care”) for the period of October 1, 2010 through September 30, 2011.

1.2 The parties acknowledge that State DHCS will obtain any necessary approvals from the Centers for Medicare and Medicaid Services (“CMS”) pertaining to the acceptance of non-federal share IGTs, and the payment of non-federal share IGT related rate range capitation increases to Health Net and L.A. Care.

## Exhibit III

CONTRACT #10-87316

### 2. Intergovernmental Transfer Assessment Fee

2.1 The State DHCS shall, upon acceptance of non-federal share IGTs pursuant to the Intergovernmental Agreement(s) Regarding the Transfer of Public Funds, and as described in paragraph 1 of this Agreement, exercise its authority under section 14301.4 of the Welfare and Institutions Code to assess a 20-percent assessment fee on the entire amount of the non-federal share IGTs to reimburse State DHCS for the administrative costs of operating the IGT program pursuant to this section and for the support of the Medi-Cal program.

2.2 The funds subject to the 20-percent assessment fee shall be limited to non-federal share IGTs made by the transferring entity, the County, pursuant to the Intergovernmental Agreement(s) Regarding the Transfer of Public Funds, and as described in paragraph 1 of this Agreement.

2.3 The 20-percent fee will be assessed on the entire amount of the non-federal share IGTs pursuant to the Intergovernmental Agreement(s) Regarding the Transfer of Public Funds, and as described in paragraph 1 of this Agreement, and will be made in addition to, and transferred separately from, the transfer of funds pursuant to the Intergovernmental Agreement(s) Regarding the Transfer of Public Funds.

2.4 The 20-percent assessment fee pursuant to this Agreement is non-refundable and shall be wired to State DHCS separately from, and simultaneous to, the non-federal share IGTs pursuant to the Intergovernmental Agreement(s) Regarding the Transfer of Public Funds, and as described in paragraph 1 of this Agreement. However, if any portion of the non-federal share IGTs is not expended for the specified rate increases stated in paragraph 2.2 of the Intergovernmental Agreement(s) Regarding the Transfer of Public Funds, DHCS shall return a proportionate amount of the 20-percent assessment fee to the County.

## Exhibit III

CONTRACT #10-87316

### 3. Other Provisions

3.1 This Agreement contains the entire Agreement between the parties with respect to the 20-percent assessment fee on non-federal share IGTs pursuant to the Intergovernmental Agreement(s) Regarding the Transfer of Public Funds, and as described in paragraph 1, and supersedes any previous or contemporaneous oral or written proposals, statements, discussions, negotiations or other agreements between the transferring entity and State DHCS. This Agreement is not, however, intended to be the sole agreement between the parties on matters relating to the funding and administration of the Medi-Cal program. One or more other agreements may exist between the parties regarding such other matters, and other agreements may be entered into in the future. This Agreement shall not modify the terms of any other agreement between the parties.

3.2 Time is of the essence in this Agreement.

3.3 Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

4. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify State DHCS' powers, authorities, and duties under federal and state law and regulations.

5. Approval. This Agreement is of no force and effect until signed by the parties.

Exhibit III

CONTRACT #10-87316

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

THE COUNTY:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Michel H. Katz, M.D.  
Director, Department of Health Services

THE STATE OF CALIFORNIA, DEPARTMENT OF HEALTH CARE SERVICES:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Stuart Busby, Chief, Capitated Rates Development Division

HEALTH PLAN-PROVIDER AGREEMENT

CAPITATION AGREEMENT FOR THE PROVISION OF HEALTH CARE SERVICES BY COUNTY

This Agreement is made this \_\_\_ day of \_\_\_\_\_ {month/year}, by and between the Local Initiative Health Authority for Los Angeles County, doing business as L.A. Care Health Plan, hereinafter referred to as "PLAN", and the COUNTY OF LOS ANGELES on behalf of its Community Health Plan, hereinafter referred to as "PROVIDER".

RECITALS:

WHEREAS, PLAN and PROVIDER have previously entered into an agreement effective January 1, 2010;

WHEREAS, Section 37 of such agreement provides for amending such Agreement;

WHEREAS, PLAN has been designated as Los Angeles County's locally created health service plan by the Los Angeles County Board of Supervisors. It is a public entity created pursuant to Welfare and Institutions Code Sections 14087.38(b) and 14087.9605 and Los Angeles County resolution and ordinance. It operates a licensed health care service plan under the California Knox Keene Act (Health and Safety Code Sections 1340 et seq.).

WHEREAS, PROVIDER has a duly licensed pre-paid full service health care service plan under the Knox-Keene Act, known as the Community Health Plan, which arranges for the provision of health care services to enrollees through providers owned and operated by the County of Los Angeles as well as other entities. Depending on context, the word "PROVIDER" as used in this document may refer to the Community Health Plan, or in Paragraph 1.F below, it may also refer to the facilities owned and operated by the County. As noted above, PROVIDER and PLAN had entered into an Agreement under which PROVIDER arranged for the provision of services to certain Medi-Cal managed care enrollees; however, such Agreement has since terminated. Nevertheless, for valuable consideration exchanged, the sufficiency of which the parties hereby acknowledge, the parties wish to take this opportunity to provide for supplemental compensation to PROVIDER for services it arranged for and provided while that Agreement was in force, as explained in the next paragraph;

WHEREAS, PLAN and PROVIDER desire to provide for Medi-Cal managed care capitation rate increases to PLAN as a result of intergovernmental transfers (IGTs) from the County of Los Angeles to the California Department of Health Care Services ("State DHCS") to maintain the availability of Medi-Cal health care services to Medi-Cal beneficiaries.

NOW, THEREFORE, PLAN and PROVIDER hereby agree as follows:

**IGT MEDI-CAL MANAGED CARE CAPITATION RATE RANGE INCREASES**

**1. IGT Capitation Rate Range Increases to PLAN**

**A. Payment**

Should PLAN receive any Medi-Cal managed care capitation rate increases from State DHCS where the nonfederal share is funded by the County of Los Angeles specifically pursuant to the provisions of the Intergovernmental Agreement Regarding Transfer of Public Funds (“Intergovernmental Agreement”) effective for the period October 1, 2010 through September 30, 2011 for Intergovernmental Transfer Medi-Cal Managed Care Rate Range Increases ( IGT MMCRRIs), PLAN shall pay to PROVIDER the amount of the IGT MMCRRIs received from State DHCS, in accordance with paragraph 1.E below regarding the form and timing of Local Medi-Cal Managed Care Rate Range (“LMMCRR”) IGT Payments. LMMCRR IGT Payments paid to PROVIDER shall not replace or supplant any other amounts paid or payable to PROVIDER by PLAN.

**B. Health Plan Retention**

1) Managed Care Organizations (MCO) Tax

The PLAN shall be responsible for any Managed Care Organization (“MCO”) tax due pursuant to the Revenue and Taxation Code Section 12201 relating to any IGT MMCRRIs. If the PLAN receives any capitation rate increases for MCO taxes based on the IGT MMCRRIs, PLAN may retain an amount equal to the amount of such MCO tax that PLAN is required to pay to the State DHCS, and shall pay, as part of the LMMCRR IGT Payments, the remaining amount of the capitation rate increase to PROVIDER.

2) PLAN will not retain any other portion of the IGT MMCRRIs received from the State DHCS other than those mentioned above.

**C. Conditions for Receiving Local Medi-Cal Managed Care Rate Range IGT Payments**

In addition to all other rights and obligations imposed on PROVIDER by the Agreement, the parties agrees that:

(1) PROVIDER will maintain and make available to PLAN Medi-Cal Enrollees for the period October 1, 2010 through January 28, 2018, the following:

- (a) Level 1 Trauma Centers at LAC+USC Medical Center and Harbor/UCLA Medical Center;
- (b) a basic emergency room at Olive View Medical Center
- (c) a burn unit at LAC+USC Medical Center;
- (d) a hyperbaric oxygen therapy chamber located on Catalina Island.

## Exhibit IV

(2) PROVIDER will not exercise its rights to terminate the Hospital Services Agreement or the Participating Provider Agreement which currently exist between the parties and call for the provision of health care services by County of Los Angeles facilities to PLAN's Medi-Cal enrollees, prior to October 31, 2012.

(3) Subject to the requirements in paragraph 1.F below, PROVIDER agrees to assign the funds received pursuant to this Agreement among the services set forth below in accordance with the proportions or amounts set by PLAN. These proportions or amounts will be determined by PLAN to represent a reasonable allocation of funds among the rendering providers. The service categories are:

- (a) Inpatient and Outpatient Facility Services
- (b) Physician/Practitioner Services
- (c) Freestanding Clinic Facility Services

(4) PROVIDER and PLAN also jointly agree that the following provisions of the Services Agreement between the County of Los Angeles on behalf of Community Health Plan and Local Initiative Health Authority for Los Angeles County d.b.a. L.A. Care Health Plan ("Services Agreement"), referenced in the first and fourth recital paragraphs, as they existed immediately before the Services Agreement's expiration on December 31, 2011, shall be incorporated by reference and applicable to this Agreement: Sections 10.01, 10.05, 10.07, 10.08, 10.09, 10.11, 10.12, 10.13, 10.16 through 10.22, subsections (d) and (e) of section 10.23 (but only insofar as they related to rights or responsibilities under this Agreement), section 10.26 and section 10.28. The parties further agree that they shall perform all obligations and honor all rights under this Agreement until they are fully performed or utilized, irrespective of the Section 2 below.

### **D. Schedule and Notice of Transfer of Non-Federal Funds**

PROVIDER shall notify PLAN within five (5) days of the date of the transfer of funds to State DHCS pursuant to the Intergovernmental Agreement.

### **E. Form and Timing of Payments**

PLAN agrees to pay LMMCRR IGT Payments to PROVIDER in the following form and according to the following schedule:

(1) PLAN agrees to pay the LMMCRR IGT Payments to PROVIDER using the same mechanism through which compensation and payments are normally paid to PROVIDER (e.g., electronic transfer).

(2) PLAN will pay the LMMCRR IGT Payments to PROVIDER no later than thirty (30) calendar days after receipt of the IGT MMCRRIs from State DHCS.

### **F. Consideration**

## Exhibit IV

(1) As consideration for the LMMCRR IGT Payments, PROVIDER shall use the LMMCRR IGT Payments for the following purposes and shall treat the LMMCRR IGT Payments in the following manner:

(a) The LMMCRR IGT Payments shall represent compensation for Medi-Cal services rendered to Medi-Cal PLAN members by PROVIDER and shall represent compensation for Medi-Cal services to Medi-Cal PLAN members during the State fiscal year to which the LMMCRR IGT Payments apply.

(b) To the extent that total payments received by PROVIDER in any State fiscal year under this Agreement exceed the cost of Medi-Cal services provided to Medi-Cal beneficiaries by PROVIDER during that fiscal year, any remaining LMMCRR IGT Payment amounts shall be retained by PROVIDER to be expended for health care services. Retained LMMCRR IGT Payment amounts may be used by the PROVIDER in either the State fiscal year received or subsequent State fiscal years.

(2) For purposes of subsection (1) (b) above, if the LMMCRR IGT Payments are not used by PROVIDER in the State fiscal year received, retention of funds by PROVIDER will be established by demonstrating that the retained earnings account of PROVIDER at the end of any State fiscal year in which it received payments based on LMMCRR IGT Payments funded pursuant to the Intergovernmental Agreement, has increased over the unspent portion of the prior State fiscal year's balance by the amount of LMMCRR IGT Payments received, but not used. These retained PROVIDER funds may be commingled with other County of Los Angeles funds for cash management purposes provided that such funds are appropriately tracked and only the depositing facility is authorized to expend them.

(3) Both parties agree that none of these funds, either from the County of Los Angeles or federal matching funds will be recycled back to the County of Los Angeles general fund, the State, or any other intermediary organization. Payments made by the health plan to providers under the terms of this Agreement constitute patient care revenues.

### **G. PLAN's Oversight Responsibilities**

PLAN's oversight responsibilities regarding PROVIDER's use of the LMMCRR IGT Payments shall be limited as described in this paragraph. PLAN shall request, within thirty (30) calendar days after the end of each State fiscal year in which LMMCRR IGT Payments were transferred to PROVIDER, a written confirmation that states whether and how PROVIDER complied with the provisions set forth in Paragraph 1.F above. In each instance, PROVIDER shall provide PLAN with written confirmation of compliance within thirty (30) calendar days of PLAN's request.

### **H. Cooperation Among Parties**

Should disputes or disagreements arise regarding the ultimate computation or appropriateness of any aspect of the LMMCRR IGT Payments, PROVIDER and PLAN agree to work together in all respects to support and preserve the LMMCRR IGT Payments to the full extent possible on behalf of the safety net in Los Angeles County.

**I. Reconciliation**

Within one hundred twenty (120) calendar days after the end of each of PLAN's fiscal years in which LMMCRR IGT Payments were made to PROVIDER, PLAN shall perform a reconciliation of the LMMCRR IGT Payments transmitted to the PROVIDER during the preceding fiscal year to ensure that the supporting amount of IGT MMCRRIs were received by PLAN from State DHCS. PROVIDER agrees to return to PLAN any overpayment of LMMCRR IGT Payments made in error to PROVIDER within thirty (30) calendar days after receipt from PLAN of a written notice of the overpayment error, unless PROVIDER submits a written objection to PLAN. Any such objection shall be resolved in accordance with the dispute resolution processes in Section 1.C above. The reconciliation processes established under this paragraph are distinct from the indemnification provisions set forth below. PLAN agrees to transmit to the PROVIDER any underpayment of LMMCRR IGT Payments within thirty (30) calendar days of PLAN's identification of such underpayment.

**J. Indemnification**

(1) Notwithstanding any other provision of this Agreement, PROVIDER shall indemnify and hold PLAN harmless against any losses, claims, demands, liabilities, court costs, judgments and expenses, imposed by a court or otherwise incurred by PLAN after the execution date of this Agreement as a result of PLAN's receipt of IGT MMCRRIs or payment of LMMCRR IGT Payments, including but not limited to the following circumstances:

(a) In the event that State DHCS, the Department of Health and Human Services or any other federal or state agency recoups, offsets, or otherwise withholds any monies from or fails to provide any monies to PLAN, or PLAN is denied any monies to which it otherwise would have been entitled, for any reason relating to the Medi-Cal managed care capitation rate range increases arising from the Intergovernmental Agreement as such increases flow through the Medi-Cal Agreement between PLAN and the State and this Agreement, including but not limited to (i) State DHCS' use of IGT MMCRRIs or LMMCRR IGT Payments to supplant or replace other amount in violation of the restrictions in Section 2.2 of the Intergovernmental Agreement; (ii) the failure of the IGT MMCRRIs to qualify in whole or part for federal participation pursuant to 42 C.F.R. part 433, subpart B; or (iii) overpayment of IGT MMCRRIs to PLAN by State DHCS, PLAN shall have a right to immediately recoup, offset or withhold any and all such amounts from payments otherwise due to PROVIDER. Recovery by PLAN pursuant to this section shall include, but not be limited to, reduction in future LMMCRR IGT Payments paid to PROVIDER in an amount equal to the amount of IGT MMCRRIs payments recovered from PLAN, or by reduction of any other amounts owed by PLAN to PROVIDER whether under this Agreement or any other agreements between the parties;

(2) PLAN shall pursue an appeal, a lawsuit, or any other available legal action to challenge any recoupment by State DHCS, the Department of Health and Human Services, or any other federal or state agency, that is not required by law, unless after consultation with PROVIDER and with good cause, PLAN determines that it is not in the best interest of PLAN and/or PROVIDER to do so;

## Exhibit IV

(3) At PLAN's discretion, PROVIDER shall either provide or arrange for legal representation on PLAN's behalf or PLAN shall arrange for its own representation and be entitled to reasonable attorney's fees and costs from PROVIDER for such representation, in addition to any and all other relief to which PLAN may be entitled, including, but not limited to, the following circumstances:

(a) If any action at law, suit in equity, arbitration, or administrative action is brought against PLAN by State DHCS, the Department of Health and Human Services, any other federal or state agency or other individual or organization to: (i) enforce or interpret the IGT MMCRRIs or LMMCRR IGT Payments; or (ii) recoup, offset, or otherwise withhold any monies from PLAN relating to the IGT MMCRRIs or LMMCRR IGT Payments; or

(b) If PLAN brings any appeal, action at law, suit in equity, arbitration or administrative action against the State DHCS, the Department of Health and Human Services or any other federal or state agency to (i) enforce or interpret the IGT MMCRRIs or LMMCRR IGT Payments; or (ii) in response to an action described in subparagraph (1)(a) or subparagraph (3)(a) above:

(4) If PLAN prevails in any appeal, action at law, suit in equity, arbitration, or administrative action against PROVIDER to enforce or interpret the IGT MMCRRIs or LMMCRR IGT Payments or to recoup, offset, or otherwise withhold any monies relating to the IGT MMCRRIs or LMMCRR IGT Payments, PLAN shall be entitled to reasonable attorney's fees and costs from PROVIDER; and

(5) In the event that PLAN believes that it is subject to any losses, claims, demands, liabilities, court costs, judgments or obligations to third parties which arise before the execution of this Agreement as a direct result of the parties' intention to enter into this Agreement or the terms of this Agreement, PLAN shall promptly notify PROVIDER of such belief. The parties will then negotiate, in good faith, the extent to which PROVIDER will provide indemnification. It is the parties' intention that PLAN not be substantially economically harmed as a result of its willingness to enter into this Agreement.

## 2. Term

The term of this Agreement shall commence on October 1, 2010 and shall terminate on January 28, 2013.

### SIGNATURES

HEALTH PLAN: \_\_\_\_\_ Date: \_\_\_\_\_

By: Title: Chair, \_\_\_\_\_

PROVIDER: \_\_\_\_\_ Date: \_\_\_\_\_

By: Title: Chief Executive Officer \_\_\_\_\_

HEALTH PLAN-PROVIDER AGREEMENT

CAPITATION AGREEMENT FOR THE PROVISION OF HEALTH CARE SERVICES BY  
COUNTY

This Amendment is made this \_\_\_ day of \_\_\_\_\_ {month/year}, by and between HEALTH NET OF CALIFORNIA, INC, hereinafter referred to as "PLAN", and the COUNTY OF LOS ANGELES, CALIFORNIA through its DEPARTMENT OF HEALTH SERVICES, hereinafter referred to as "PROVIDER".

RECITALS:

WHEREAS, PLAN and PROVIDER have previously entered into an Agreement effective February 16, 1999;

WHEREAS, Section 37 of such Agreement provides for amending such Agreement;

WHEREAS, the Agreement referenced above, and any amendments to it are known among the parties as Capitation Agreement for Provision of Health Care Services and is further identified as Agreement No. H. 210040. Although in that Agreement, PLAN is referred to as "Contractor", for purposes of this Amendment, it shall be referred to by the designations listed above;

WHEREAS, PROVIDER, which includes a network of acute care hospitals and free standing clinics, and their related physician services, has been experiencing economic losses in connection with making essential services available to the public, including PLAN Medi-Cal Enrollees and requires additional revenue in order to assure their continuing availability. Although in Agreement No. H 210040, the County was referred to as "County", for purposes of this Amendment, it shall be referred to by the designation listed above. Where appropriate given the context and in paragraph F below, PROVIDER may refer to individual health facilities owned and operated by the County of Los Angeles, California or to physicians employed or contracted with the County for the provision of care in those facilities; and

WHEREAS, PLAN and PROVIDER desire to amend the Agreement to provide for Medi-Cal managed care capitation rate increases to PLAN as a result of intergovernmental transfers ("IGTs") from the County of Los Angeles, California to the California Department of Health Care Services ("State DHCS") to maintain the availability of Medi-Cal health care services to Medi-Cal beneficiaries.

NOW, THEREFORE, PLAN and PROVIDER hereby agree as follows:

The following paragraph 43, IGT MEDI-CAL MANAGED CARE CAPITATION RATE RANGE INCREASES, shall be added:

**43. IGT MEDI-CAL MANAGED CARE CAPITATION RATE RANGE INCREASES****1. IGT Capitation Rate Range Increases to PLAN****A. Payment**

Should PLAN receive any Medi-Cal managed care capitation rate increases from State DHCS where the nonfederal share is funded by the County of Los Angeles, California specifically pursuant to the provisions of the Intergovernmental Agreement Regarding Transfer of Public Funds (“Intergovernmental Agreement”) effective for the period October 1, 2010 through September 30, 2011 for Intergovernmental Transfer Medi-Cal Managed Care Rate Range Increases (“IGT MMCRRIs”), PLAN shall pay to PROVIDER the amount of the IGT MMCRRIs received from State DHCS, in accordance with paragraph 1.E below regarding the form and timing of Local Medi-Cal Managed Care Rate Range (“LMMCRR”) IGT Payments. LMMCRR IGT Payments paid to PROVIDER shall not replace or supplant any other amounts paid or payable to PROVIDER by PLAN.

**B. Health Plan Retention**

## (1) Managed Care Organizations Tax

The PLAN shall be responsible for any Managed Care Organization (“MCO”) tax due pursuant to the Revenue and Taxation Code Section 12201 relating to any IGT MMCRRIs. If the PLAN receives any capitation rate increases for MCO taxes based on the IGT MMCRRIs, PLAN may retain an amount equal to the amount of such MCO tax that PLAN is required to pay to the State DHCS, and shall pay, as part of the LMMCRR IGT Payments, the remaining amount of the capitation rate increase to PROVIDER.

(2) PLAN may also retain One Hundred Thousand Dollars (\$100,000) of the IGT MMCRRIs as an administrative fee for the services it renders in connection with this paragraph 43.

(3) PLAN will not retain any other portion of the IGT MMCRRIs received from the State DHCS other than those mentioned above.

**C. Conditions for Receiving Local Medi-Cal Managed Care Rate Range IGT Payments**

In addition to all other obligations imposed on PROVIDER by the Agreement, PROVIDER agrees that

(1) It will maintain and make available to PLAN Medi-Cal Enrollees for the period October 1, 2010 through June 30, 2012, the following:

- Level 1 Trauma Centers at LAC+USC Medical Center and Harbor/UCLA Medical Center;
- a basic emergency room at Olive View Medical Center;

- a burn unit at LAC+USC Medical Center;
- a hyperbaric oxygen therapy chamber located on Catalina Island.

(2) PROVIDER will apply Inpatient Clinical Pathways as structured care tools for PLAN Medi-Cal Enrollees, as appropriate, for hospital admissions for the following conditions:

Community Acquired Pneumonia  
Congestive Heart Failure  
Uncomplicated Cellulitis  
Appendectomy with Rupture  
Appendectomy without Rupture  
Laparoscopic Appendectomy without Rupture  
Laparoscopic Cholecystectomy  
Elective Colon Resection without Ostomy

(3) Subject to the requirements in paragraph 1.F below, PROVIDER agrees to assign the funds received pursuant to this Amendment No. X between Inpatient and Outpatient Hospital Services and Physician/Practitioner Services in accordance with the proportions set by PLAN. These proportions will be established to represent a reasonable allocation based on the needs of these categories of services and the relative value of the services each provides.

**D. Schedule and Notice of Transfer of Non-Federal Funds**

PROVIDER shall notify PLAN with five (5) days of the date of the transfer of funds to State DHCS pursuant to the Intergovernmental Agreement.

**E. Form and Timing of Payments**

PLAN agrees to pay LMMCRR IGT Payments to PROVIDER in the following form and according to the following schedule:

(1) PLAN agrees to pay the LMMCRR IGT Payments to PROVIDER using the same mechanism through which compensation and payments are normally paid to PROVIDER (e.g., electronic transfer).

(2) PLAN will pay the LMMCRR IGT Payments to PROVIDER no later than thirty (30) calendar days after receipt of the IGT MMCRRIs from State DHCS.

**F. Consideration**

(1) As consideration for the LMMCRR IGT Payments, PROVIDER shall use the LMMCRR IGT Payments for the following purposes and shall treat the LMMCRR IGT Payments in the following manner:

(a) The LMMCRR IGT Payments shall represent compensation for Medi-Cal services rendered to Medi-Cal PLAN members by PROVIDER and shall represent compensation for Medi-Cal services to Medi-Cal PLAN members during the State fiscal year to which the LMMCRR IGT Payments apply.

(b) To the extent that total payments received by PROVIDER in any State fiscal year under this Amendment exceed the cost of Medi-Cal services provided to Medi-Cal beneficiaries by PROVIDER during that fiscal year, any remaining LMMCRR Payment amounts shall be retained by PROVIDER to be expended for health care services. Retained LMMCRR Payment amounts may be used by the PROVIDER in either the State fiscal year received or subsequent State fiscal years.

(2) For purposes of subsection (1) (b) above, if the LMMCRR IGT Payments are not used by PROVIDER in the State fiscal year received, retention of funds by PROVIDER will be established by demonstrating that the retained earnings account of PROVIDER at the end of any State fiscal year in which it received payments based on LMMCRR IGT Payments funded pursuant to the Intergovernmental Agreement, has increased over the unspent portion of the prior State fiscal year's balance by the amount of LMMCRR IGT Payments received, but not used. These retained PROVIDER funds may be commingled with other County of Los Angeles funds for cash management purposes provided that such funds are appropriately tracked and only the depositing facility is authorized to expend them.

(3) Both parties agree that none of these funds, either from the County of Los Angeles or federal matching funds will be recycled back to the County of Los Angeles general fund, the State, or any other intermediary organization. Payments made by the health plan to providers under the terms of this Amendment constitute patient care revenues.

**G. PLAN's Oversight Responsibilities**

PLAN's oversight responsibilities regarding PROVIDER's use of the LMMCRR IGT Payments shall be limited as described in this paragraph. PLAN shall request, within thirty (30) calendar days after the end of each State fiscal year in which LMMCRR IGT Payments were transferred to PROVIDER, a written confirmation that states whether and how PROVIDER complied with the provisions set forth in Paragraph 1.F above. In each instance, PROVIDER shall provide PLAN with written confirmation of compliance within thirty (30) calendar days of PLAN's request.

**H. Cooperation Among Parties**

Should disputes or disagreements arise regarding the ultimate computation or appropriateness of any aspect of the LMMCRR IGT Payments, PROVIDER and PLAN agree to work together in all respects to support and preserve the LMMCRR IGT Payments to the full extent possible on behalf of the safety net in Los Angeles County.

**I. Indemnification**

(1) Anything to the contrary contained in Paragraph 18 of this Agreement notwithstanding, PROVIDER shall indemnify and hold PLAN harmless against any

## Exhibit V

losses, claims, demands, liabilities, court costs, judgments and expenses, imposed by a court or otherwise incurred by PLAN after the execution date of this Amendment as a result of PLAN's receipt of IGT MMCRRIs or payment of LMMCRR IGT Payments, including but not limited to the following circumstances:

(a) In the event that State DHCS, the Department of Health and Human Services or any other federal or state agency recoups, offsets, or otherwise withholds any monies from or fails to provide any monies to PLAN, or PLAN is denied any monies to which it otherwise would have been entitled, for any reason relating to the Medi-Cal managed care capitation rate range increases arising from the Intergovernmental Agreement as such increases flow through the Medi-Cal Agreement between PLAN and the State and this Agreement, including but not limited to (a) State DHCS' use of IGT MMCRRIs or LMMCRR IGT Payments to supplant or replace other amount in violation of the restrictions in Section 2.2 of the Intergovernmental Agreement; (b) the failure of the IGT MMCRRIs to qualify in whole or part for federal participation pursuant to 42 C.F.R. part 433, subpart B; or (c) overpayment of IGT MMCRRIs to PLAN by State DHCS, PLAN shall have a right to immediately recoup, offset or withhold any and all such amounts from payments otherwise due to PROVIDER. Recovery by PLAN pursuant to this section shall include, but not be limited to, reduction in future LMMCRR IGT Payments paid to PROVIDER in an amount equal to the amount of IGT MMCRRIs payments recovered from PLAN, or by reduction of any other amounts owed by PLAN to PROVIDER;

(b) PLAN shall pursue an appeal, a lawsuit, or any other available legal action to challenge any recoupment by State DHCS, the Department of Health and Human Services, or any other federal or state agency, that is not required by law, unless after consultation with PROVIDER and with good cause, PLAN determines that it is not in the best interest of PLAN and/or PROVIDER to do so;

(2) At PLAN's discretion, PROVIDER shall either provide or arrange for legal representation on PLAN's behalf or PLAN shall arrange for its own representation and be entitled to reasonable attorney's fees and costs from PROVIDER for such representation, in addition to any and all other relief to which PLAN may be entitled, including, but not limited to, the following circumstances:

(a) If any action at law, suit in equity, arbitration, or administrative action is brought against PLAN by State DHCS, the Department of Health and Human Services, any other federal or state agency or other individual or organization to: (i) enforce or interpret the IGT MMCRRIs or LMMCRR IGT Payments; or (ii) recoup, offset, or otherwise withhold any monies from PLAN relating to the IGT MMCRRIs or LMMCRR IGT Payments; or

(b) If PLAN brings any appeal, action at law, suit in equity, arbitration or administrative action against the State DHCS, the Department of Health and Human Services or any other federal or state agency to (i) enforce or interpret the IGT MMCRRIs or LMMCRR IGT Payments; or (ii) in response to an action described in subparagraph 1(a) or subparagraph 2(a) above:

## Exhibit V

(3) If PLAN prevails in any appeal, action at law, suit in equity, arbitration, or administrative action against PROVIDER to enforce or interpret the IGT MMCRRIs or LMMCRR IGT Payments or to recoup, offset, or otherwise withhold any monies relating to the IGT MMCRRIs or LMMCRR IGT Payments, PLAN shall be entitled to reasonable attorney's fees and costs from PROVIDER; and

(4) In the event that PLAN believes that it is subject to any losses, claims, demands, liabilities, court costs, judgments or obligations to third parties which arise before the execution of this Amendment as a direct result of the parties' intention to enter into this Amendment or the terms of this Amendment, PLAN shall promptly notify PROVIDER of such belief. The parties will then negotiate, in good faith, the extent to which PROVIDER will provide indemnification. It is the parties' intention that PLAN not be substantially economically harmed as a result of its willingness to enter into this Amendment.

### **2. Term**

The term of this Amendment shall commence on October 1, 2010 and shall terminate on January 28, 2013.

All other terms and provisions of said Agreement shall remain in full force and effect so that all rights, duties and obligations, and liabilities of the parties hereto otherwise remain unchanged; provided, however, if there is any conflict between the terms of this Amendment and the Agreement, then the terms of this Amendment shall govern.

**SIGNATURES**

HEALTH PLAN: Health Net of California, Inc.      Date: \_\_\_\_\_

By: Title: Chair, \_\_\_\_\_

PROVIDER: County of Los Angeles                      Date: \_\_\_\_\_

By: \_\_\_\_\_

Mitchell H. Katz, M.D.  
Director, Department of Health Services